

Organizations that have exemption identification numbers issued by the Department may engage in two occasional dinners, socials or other similar activities in a calendar year without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005. (This is a PLR).

October 2, 2000

Dear Mr. Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see <http://www.revenue.state.il.us/legalinformation/regs/part1200>), is in response to your letter dated August 16, 2000. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to ORGANIZATION for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither ORGANIZATION nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

On behalf of the ORGANIZATION operating at the # separate schools in District #, we hereby request a Private Letter Ruling pursuant to 2 Ill. Adm. Code 1200.110, regarding the applicability of the Illinois Retail Occupation Tax ('ROT') and/or the Illinois Use Tax ('Use Tax') to the transactions described herein. When necessary, reference has been made to the requirements of 2 Ill. Adm. Code 1200.100(4)(b)(1)-(8). (A Form IL-2848 'Power of Attorney' designating the undersigned as entitled to submit this ruling request on behalf of ORGANIZATION is attached hereto as Exhibit 1.)

The Requested Ruling

ORGANIZATION request a Private Letter Ruling that each of the ORGANIZATION is entitled to conduct two 'Occasional Dinners and Similar Activities' per year without incurring ROT liability. See IDOR Regulation, Section 130.2006(a).

Statement of Facts

The ORGANIZATION is a not-for-profit association organized and existing under the laws of the State of Illinois. ORGANIZATION is organized exclusively for charitable and educational purposes within the meaning of Section 503(c) of the Internal Revenue Code and IDOR Regulation, Section 130.2005(a)(1)(D).

The local ORGANIZATION operating at the # schools in District # are not separate legal entities, but are operated as divisions of the ORGANIZATION. The local

ORGANIZATIONS do not have separate tax I.D. numbers, separate not-for-profit exemption numbers under Section 103.2007, or separate state reseller's certificates, and operate under the designations granted to ORGANIZATION. The local ORGANIZATIONS have separate officers who manage their respective ORGANIZATION under the auspices of ORGANIZATION. While local ORGANIZATIONS maintain separate bank accounts (all under the ORGANIZATION tax and not-for-profit designations), all state and federal tax matters and annual auditing functions are performed at the ORGANIZATION level.

The mission of ORGANIZATION is to promote cooperation, understanding and communication between school and home and to facilitate District-wide activities for the maximum benefit of students. All parents and/or guardians of children enrolled in District # schools (and current District employees) are eligible for membership in ORGANIZATION. Membership is maintained at the local ORGANIZATION level. Thus, both ORGANIZATION and the ORGNAIZATION operating at the individual schools are composed of volunteers—parents, guardians, teachers, and other school personnel—who give generously of their time and talents to help their students and to facilitate the educational process in CITY's schools.

One of the principle functions of the local ORGANIZATION is fund raising. Funds raised by the local ORGANIZATION are used to purchase computers, audio-visual equipment, teacher supplies, demonstrative aids, books and a wide variety of things to benefit the schools and educational process. Funds raised by the individual ORGANIZATION divisions are plowed back into the schools and have the effect of offsetting taxes that otherwise would be needed to acquire the same materials and services for the schools.

Analysis

Throughout the year, the ORGANIZATION conduct a wide variety of different fund raising activities. Department regulations currently allow exempt groups to engage in two "occasional dinners and similar activities" per year without incurring ROT liability. See IDOR Regulation, Section 130.2005(a)(4). Thus ORGANIZATION-as a qualifying exempt organization—would be entitled to conduct two such events.

The undersigned requests a private letter ruling that would enable each of the ORGANIZATIONS operating at the # separate school in CITY to conduct two 'occasional dinners and similar activities' per year without incurring ROT liability. The ORGANIZATIONS are staffed entirely by volunteers with varying degrees of accounting and tax experience. It is not practicable for each of the ORGANIZATION to organize separately, to apply separately for "E" numbers from the Department under Section 130.2007, and to operate as separate legal entities for taxing purposes. That is contrary to the organizational, administrative and accounting structure of CITY and beyond the ken of the volunteers who donate their time to benefit children, not become saddled with administrative matters. Nor is it desirable from the Department's

prospective to greatly increase the Department's administrative burden in addressing submissions from scores of individual ORGANIZATIONS. Nor is it feasible – or advisable – to have the ORGANIZATIONS operating in District # schools to conduct the same two events each year and attempt to conduct those events at the same time in order to come within the literal language of Section 130.2005(a)(4).

Section 130.2005(a)(4) was designed to enable qualifying exempt organizations to conduct a limited number of specific types of annual events without incurring ROT liability. ORGANIZATIONS – like traditional PTA's – are recognized as the type of exempt organizations that are entitled to benefit from the provisions of Section 130.2005(a)(4). Nothing would be served to deny the ORGANIZATION the ability to partake of Section 130.2005(a)(4) simply because – out of administrative necessity – they operate as divisions of ORGANIZATION, rather than as separate legal entities. Although ORGANIZATION has # divisions, rather than the 50 subsidiaries described in Section 130.2007, the logic and spirit of that regulation support the private letter ruling sought herein.

To the best of the knowledge of ORGANIZATION, and the undersigned, the Department has not previously ruled on the same or a similar issue for the taxpayer or any predecessor and neither the taxpayer nor any representative has ever previously submitted the same or similar issue to the Department at any time, including any such request that may have been withdrawn prior to the issuance of a letter ruling. Besides the authorities listed above, we are aware of no other supporting or contrary relevant authorities within the meaning of 2 Ill. Admin. Code 1200(b)(5)&(6).

No audit or litigation is currently pending with the Department. No trade secret or other information need be deleted from the publicly disseminated version of the private letter ruling.

Conclusion

We respectfully request the Department issue a Private Letter Ruling that each of the ORGANIZATION within CITY ORGANIZATION are entitled to conduct two 'occasional dinners and similar activities' per year without incurring ROT liability within the meaning of IDOR Regulation Section 130.2006(a).

If you have a contrary view, we would request the opportunity to discuss the matter with you further. Thank you for your assistance in this matter. If you have any questions or need additional information, please contact me at #####.

You indicate in your letter that you are requesting a Private Letter Ruling within the meaning of Section 130.2006(a); however, your analysis refers to Section 130.2005(a)(4). Since Section 130.2005(a)(4) contains the regulatory provisions pertaining to Occasional Dinners and Similar

Activities by qualifying organizations, this Private Letter Ruling concerns the application of Section 130.2005 to your fact situation.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

Section 1g of the Retailers' Occupation Tax Act provides, in part, that in the case of a corporation, society, association, foundation, or institution organized and operated exclusively for charitable purposes and that has more than 50 subsidiary organizations in Illinois, the Department, in its sole discretion, may issue one exemption identification number to be used by the parent organization and each subsidiary organization. 35 ILCS 120/1g (1998 State Bar Edition). Even if the "logic and spirit" of the 50 subsidiary requirement applied so as to recognize groups with 50 or less divisions, the Department is unable to accommodate this request. The provisions requiring more than 50 subsidiary organizations are statutory provisions. The Department is unable to either narrow or enlarge the scope of the statute. The ORGANIZATION has only # local divisions or associations; therefore, the Department is unable to issue one exemption identification number for the use of ORGANIZATION and each of its local associations. However, in addition to ORGANIZATION applying for its own exemption identification number, each of its local associations may apply for its own exemption identification number under Section 130.2007.

Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability.

Section 130.2005(a)(4)(A) provides that occasional dinners, socials or other similar activities that are conducted by exclusively charitable, religious or educational organizations or institutions are not taxable, whether or not such activities are open to the public. This exemption extends to occasional dinners, ice cream socials, fun fairs, carnivals, rummage sales, bazaars, bake sales and the like, when conducted by such organizations, whether the items that are sold are purchased or donated for the purposes of the sale. "Occasional" means not more than twice in any calendar year. Section 130.2005(a)(4)(B).

If each local ORGANIZATION association applies for and receives an exemption identification number from the Department, each local ORGANIZATION association may engage in two occasional dinners, socials or other similar activities in a calendar year.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the

material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk

Enc.